

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Crim. Action No.: 2:20-CR-20  
(Judge Kleeh)

TARA LYNN LEARY,

Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION  
CONCERNING PLEA OF GUILTY IN FELONY CASE [ECF NO. 42],  
ACCEPTING GUILTY PLEA, AND SCHEDULING SENTENCING HEARING**

On May 24, 2022, the Defendant, Tara Lynn Leary ("Leary"), appeared before United States Magistrate Judge Michael J. Aloï and moved for permission to enter a plea of **GUILTY** to Count Two of the Indictment, charging her with Possession with Intent to Distribute at Least Fifty Grams of Methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(A)(viii).

This Court referred Leary's plea of guilty to the magistrate judge for the purpose of administering the allocution, pursuant to Federal Rule of Criminal Procedure 11, making a finding as to whether the plea was knowingly and voluntarily entered, and recommending to this Court whether the plea should be accepted. Leary stated that she understood that the magistrate judge is not a United States District Judge, and Leary consented to pleading before the magistrate judge.

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Based upon Leary's statements during the plea hearing and the Government's proffer establishing that an independent factual basis for the plea existed, the magistrate judge found that Leary was competent to enter a plea, that the plea was freely and voluntarily given, that she understood the charges against her and the consequences of her plea, and that a factual basis existed for the tendered plea. The magistrate judge issued a *Report and Recommendation Concerning Plea of Guilty in Felony Case* ("R&R") [ECF No. 42] finding a factual basis for the plea and recommending that this Court accept Leary's plea of guilty to Count Two of the Indictment.

The magistrate judge **remanded** Leary to the custody of the U.S. Marshals Service.

The magistrate judge also directed the parties to file any written objections to the R&R within fourteen (14) days after service of the R&R. He further advised that failure to file objections would result in a waiver of the right to appeal from a judgment of this Court based on the R&R. Neither Leary nor the Government filed objections to the R&R.

Accordingly, this Court **ADOPTS** the magistrate judge's R&R [ECF No. 42], provisionally **ACCEPTS** Leary's guilty plea, and

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ADJUDGES her **GUILTY** of the crime charged in Count Two of the Indictment.

Pursuant to Fed. R. Crim. P. 11(c)(3) and U.S.S.G. § 6B1.1(c), the Court **DEFERS** acceptance of the proposed plea agreement until it has received and reviewed the presentence investigation report prepared in this matter.

Pursuant to U.S.S.G. § 6A1 et seq., the Court **ORDERS** the following:

1. The Probation Officer shall undertake a presentence investigation of Leary, and prepare a presentence investigation report for the Court;

2. The Government and Leary shall each provide their narrative descriptions of the offense to the Probation Officer by **June 24, 2022**;

3. The presentence investigation report shall be disclosed to Leary, her counsel, and the Government on or before **August 8, 2022**; however, the Probation Officer shall not disclose any sentencing recommendations made pursuant to Fed. R. Crim. P. 32(e)(3);

4. Counsel may file written objections to the presentence investigation report on or before **August 22, 2022**;

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5. Counsel's responses to objections to the presentence investigation report shall be filed on or before **August 29, 2022;**

6. The Office of Probation shall submit the presentence investigation report with addendum to the Court on or before **September 12, 2022;** and

6. Counsel may file any written sentencing memoranda or statements and motions for departure from the Sentencing Guidelines, including the factual basis for the same, on or before **September 19, 2022.**

The Court further **ORDERS** that prior to sentencing, Leary's counsel shall review with her the revised Standard Probation and Supervised Release Conditions adopted by this Court on November 29, 2016, pursuant to the standing order entered by Chief Judge Groh, In Re: Revised Standard Probation and Supervised Release Conditions, 3:16-MC-56.

The Court will conduct the **Sentencing Hearing** for Leary on **October 19, 2022, at 2:30 P.M.,** at the **Elkins, West Virginia,** point of holding court. If counsel anticipates having multiple witnesses or an otherwise lengthy sentencing hearing, please notify the Judge's chamber staff so that an adequate amount of time can be scheduled.

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It is so ORDERED.

The Clerk is directed to transmit copies of this Order to  
counsel of record and all appropriate agencies.

DATED: June 14, 2022

Handwritten signature of Thomas S. Klee in black ink.

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THOMAS S. KLEE, CHIEF JUDGE  
NORTHERN DISTRICT OF WEST VIRGINIA